

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 5:10-CR-15

Harrisonburg, Virginia

June 25, 2012

NAKIA HEATH KELLER,

Defendant.

TRANSCRIPT OF GUILTY PLEA PROCEEDINGS
BEFORE THE HONORABLE GLEN E. CONRAD
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Government:

JEB T. TERRIEN

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For the Defendant:

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Proceedings recorded by mechanical stenography;
computer-assisted transcription.

1 (Call to Order of the Court at 1:10 p.m.)

2 THE COURT: Good afternoon.

3 MR. TERRIEN: Good afternoon, Your Honor.

4 THE COURT: I'll ask Ms. Moody to announce the
5 style of the next case, please.

6 THE CLERK: United States versus Nakia Heath
7 Keller, Criminal Action 5:10-CR-15, defendant two, for a
8 change of plea hearing.

9 THE COURT: Mr. Hebllich, as you heard, Ms. Moody
10 has announced this case as one in which she thinks a change
11 of plea is contemplated. Is that your understanding as
12 well?

13 MR. HEBLICH: That's correct, Your Honor.

14 THE COURT: If that's the case, let me ask if you
15 and the client would come and take a place at the podium,
16 please.

17 MR. HEBLICH: Yes, sir.

18 THE COURT: You are Mr. Nakia Keller?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Keller, Mr. Hebllich tells me that
21 he believes that you are considering changes of plea in your
22 criminal case from pleas of not guilty to various counts of
23 a criminal indictment outstanding to pleas of guilty to all
24 those same counts pursuant to an agreement with the United
25 States. Is that true? Are you considering a change of plea

1 in your case?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Keller, before the Court is in a
4 position to accept a change of plea from you, the Court has
5 to be satisfied that you understand about the consequences
6 of your decision; that you are fully aware of the nature and
7 the charges set forth in the various counts of this
8 indictment; that you understand about the elements of these
9 counts, that is, what the government would have to prove to
10 show that you were guilty of such conduct; that you
11 understand the penalties that attach to these various
12 charges; and, finally, that you are fully aware of all of
13 the constitutionally and related statutory rights that you
14 would waive, that you would give up, if you make pleas of
15 guilty.

16 In order to determine whether you have an adequate
17 understanding of these matters, I need to ask you a series
18 of questions here in a few moments. I need to have you
19 answer those questions under oath. Is that okay with you?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Let me ask you to raise your right
22 hand, face Ms. Moody, and be sworn.

23 NAKIA HEATH KELLER, DEFENDANT, SWORN

24 THE CLERK: Thank you.

25 THE COURT: Mr. Heblich, I wonder, have you and

1 your client had an opportunity to receive a copy of the
2 indictment in which he's named and to review that indictment
3 thoroughly before we convened here this afternoon?

4 MR. HEBLICH: Yes, Your Honor. I have the
5 indictment here. It has been reviewed thoroughly.

6 THE COURT: Let me ask, is there any desire on your
7 part to have the indictment read in its entirety into the
8 record at this point or would you prefer waiving a first
9 formal reading?

10 MR. HEBLICH: We would prefer waiving it.
11 Mr. Keller and I have discussed that. And he agrees to
12 waive the reading of the indictment.

13 THE COURT: Mr. Terrien, is there any desire on
14 your part to have the indictment read into the record?

15 MR. TERRIEN: No, sir.

16 THE COURT: I understand that actually we're
17 dealing with a second -- or maybe a first superseding
18 indictment this afternoon. Perhaps the -- that indictment
19 did not carry -- a Rule 10 hearing was not conducted on that
20 indictment; is that your understanding as well?

21 MR. HEBLICH: That's correct, Your Honor.
22 Mr. Keller is prepared to waive the Rule 10 hearing.

23 THE COURT: There are no substantive changes
24 between the first version of the indictment and the second
25 in your case, are there?

1 THE CLERK: It is a second superseding.

2 THE COURT: Two charges --

3 MR. TERRIEN: Your Honor, I just wanted to be clear
4 that the indictment we are going forward on today is the
5 second superseding indictment. The distinction between the
6 first superseding indictment and the second was merely
7 clerical.

8 THE COURT: So it is the second superseding
9 indictment to which Mr. Keller proposes to plead guilty.
10 And as I understand it, even though there was not a Rule 10
11 hearing conducted on that indictment, that you and the
12 client wish to waive the Rule 10 hearing in connection with
13 that document?

14 MR. HEBLICH: That's correct, Your Honor.

15 THE COURT: Okay. Mr. Keller, as I say, I do have
16 a series of questions for you. And I think that you'll find
17 that most of the questions are fairly basic, fairly simple.
18 On the other hand, if you don't understand a question or
19 want me to restate it or repeat it, that's fine. Just let
20 me know. We have got lots of time. This is important. It
21 has a profound impact on your life. So we want to make sure
22 that we go over this set of questions as thoroughly as we
23 need to.

24 If you wish to consult with counsel as we go
25 through this colloquy, that's fine as well. Just let me

1 know. And I'll arrange for you to meet with Mr. Hebllich
2 either here in the courtroom or perhaps in some more private
3 setting. Again, we have lots of time. So there's no
4 hurry. Let me know if you have any questions or there's
5 something that you don't understand.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: First of all, let me ask, do you agree
8 with Mr. Hebllich that you and he have had an adequate
9 opportunity to discuss the indictment that is now pending in
10 your case and to review it thoroughly before we convened
11 here today?

12 THE DEFENDANT: Yes, sir, I agree with him.

13 THE COURT: Then, to begin, let me ask you to state
14 for the record your full name.

15 THE DEFENDANT: Nakia Heath Keller.

16 THE COURT: What was your permanent address before
17 you were arrested, Mr. Keller?

18 THE DEFENDANT: I was living in Fulks Run,
19 Virginia.

20 THE COURT: Do you know how one would have reached
21 you by mail at that address?

22 MR. HEBLICH: Street address?

23 THE DEFENDANT: Oh, man, I don't remember it.

24 THE COURT: If you don't know, that's fine.

25 THE DEFENDANT: I don't remember what it is now.

1 MR. HEBLICH: We'll have that in a moment for you,
2 Your Honor.

3 THE COURT: Okay. If you don't know, Mr. Hebllich,
4 that's fine.

5 MR. HEBLICH: It is Hopkins Gap Road, Your Honor, I
6 believe. I don't remember the exact --

7 THE DEFENDANT: I don't remember the house number.

8 THE COURT: All right. That's fine.

9 What are the last four digits of your social
10 security number, Mr. Keller?

11 THE DEFENDANT: 7554.

12 THE COURT: How old are you?

13 THE DEFENDANT: I'm 37.

14 MR. TERRIEN: What is your date of birth?

15 THE DEFENDANT: 5/24/75.

16 THE COURT: How far have you gone in school?

17 THE DEFENDANT: I completed high school.

18 THE COURT: Do you have any additional vocational
19 training or expertise in any particular job area?

20 THE DEFENDANT: I have studied for small engine
21 repair. I was an electrician on the streets.

22 THE COURT: Are you currently under the care of any
23 physician, any psychiatrist or psychologist, mental health
24 specialist or clinician for any emotional or mental problems
25 that might affect your judgment, impair your thinking, limit

1 your communication skills or make it difficult for you to
2 understand the nature of this prosecution?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you currently under the influence
5 of any drugs, any intoxicants, alcohol, prescription
6 medications, controlled substances? Have you ingested any
7 substance or preparation before coming here today that would
8 affect your judgment, your cognition, your reasoning, your
9 ability to participate and understand the nature of these
10 proceedings?

11 THE DEFENDANT: No, sir, I'm not.

12 THE COURT: Do you know why we are here today and
13 what we hope to accomplish?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Can you tell me in your own words what
16 you understand to be the purpose of this hearing? Why have
17 we convened?

18 THE DEFENDANT: Well, sir, I'm here to plead guilty
19 to the charges that I've committed.

20 THE COURT: Yes, sir. Yes, sir.

21 Mr. Heblich, I wonder, given your dealings with
22 this man, the opportunity that you have had to observe his
23 demeanor and consider his station, do you believe that he
24 possesses the capacity to make a voluntary, intelligent, and
25 informed decision about a change of plea this afternoon?

1 MR. HEBLICH: Yes. I think he's completely
2 competent and informed to make this decision.

3 THE COURT: Mr. Keller, at this time I'm going to
4 ask Mr. Terrien or perhaps one of his associates to come
5 forward and to tell us first about the charges that are
6 pending by virtue of this second superseding indictment;
7 advise us as to the elements of each of the offenses stated
8 in the indictment; tell us about the penalties -- the
9 maximum penalties provided by law as to each of these
10 charges; and then I'm going to ask that he review with you
11 and with me the most important provisions of the plea
12 agreement, the contract that you have reached with the
13 government in your case.

14 Good afternoon, Mr. Terrien.

15 MR. TERRIEN: Good afternoon, Your Honor.

16 Your Honor, to review the counts and the elements
17 of each to which Mr. Keller is pleading guilty to, they are
18 as follows: First, Count One alleges a conspiracy to commit
19 interstate domestic violence. That's in violation of 18
20 U.S.C. Section 371.

21 The elements are as follows: first, that two or
22 more persons agreed to do something which violated federal
23 law, in particular, interstate domestic violence, which is a
24 violation of 18 U.S.C. Section 2261, as alleged in Count
25 Seven of the indictment; second, that the defendant knew of

1 the conspiracy and willfully joined it; and, third, that at
2 some time during the existence of the conspiracy one of the
3 members of the conspiracy knowingly performed one of the
4 overt acts charged in the indictment in order to accomplish
5 the object of the agreement or conspiracy.

6 Count Two, Your Honor, charges a conspiracy to
7 carry and use a firearm in relation to a crime of violence,
8 in violation of 18 U.S.C. Section 924(o). The elements are
9 as follows: first, that two or more persons agreed to use
10 or carry a firearm during and in relation to a crime of
11 violence which may be prosecuted in federal court, in
12 particular, the offenses alleged in Counts One, Three,
13 Seven, Nine, and Eleven of the indictment, which I'll get to
14 in just a moment; second, that the defendant knew of this
15 agreement or conspiracy; and, third, that the defendant
16 knowingly and voluntarily participated in or became a part
17 of this agreement or conspiracy.

18 Count Three, Your Honor, charges a conspiracy to
19 kill witnesses, in violation of 18 U.S.C. Section 1512
20 subsection K. The elements are as follows: first, that two
21 or more persons agreed to kill witnesses, in violation of 18
22 U.S.C. 512 (a)(1)(C); second, that the defendant knew of
23 this conspiracy or agreement; and, third, that the defendant
24 knowingly and voluntarily participated in or became a part
25 of this agreement or conspiracy.

1 Count Four, Your Honor, charges a conspiracy to
2 tamper with witnesses, in violation of 18 U.S.C. 1512(k).
3 The elements are as follows: first, that two or more
4 persons agreed to tamper with witnesses in violation of 18
5 U.S.C. Section 1512(b)(2)(A) and 18 USC Section 1512(b)(3);
6 second, that the defendant knew of this agreement or
7 conspiracy; and, third, that the defendant knowingly and
8 voluntarily participated in or became a part of this
9 agreement or conspiracy.

10 Count Five, Your Honor, charges a conspiracy to
11 tamper with evidence, in violation, again, of 18 U.S.C.
12 Section 1512(k). The elements are, first, that two or more
13 persons agreed to destroy or tamper with evidence, a
14 violation of 18 U.S.C. 1512(c)(1); second, that the
15 defendant knew of this conspiracy; and, third, the defendant
16 knowingly and voluntarily participated in or became a part
17 of the conspiracy.

18 Count Six, Your Honor, charges a conspiracy to use
19 fire to commit a felony offense, in violation of 18 U.S.C.
20 Section 844(m). The elements are as follows: first, that
21 two or more persons agreed to use fire to commit a felony,
22 in particular, to destroy or tamper with evidence, a
23 violation of 18 U.S.C. Section 1512(C)(1); second, that the
24 defendant knew of this conspiracy; and, third, the defendant
25 knowingly and voluntarily participated in the conspiracy.

1 Count Seven, Your Honor, charges a violation of 18
2 U.S.C. Section 2261(a)(1), which is interstate domestic
3 violence. The elements are that: first, the defendant
4 traveled in interstate -- excuse me, in interstate; second,
5 the defendant did so with the intent to kill, injury,
6 harass, or intimidate a spouse or intimate partner; and,
7 third, that in the course of or as a result of such travel
8 the defendant committed a crime of violence against that
9 spouse or intimate partner; and, fourth, that the death of
10 the victim resulted.

11 Count Eight, Your Honor, alleges that the defendant
12 did carry and use a firearm in relation to a crime of
13 violence, in particular interstate domestic violence. And
14 that is a violation of 18 U.S.C. Sections 924(c) and
15 924(j)(1). The elements are: first, the defendant used or
16 carried a firearm; second, that the defendant did so during
17 and in relation to a crime of violence which may be
18 prosecuted in federal court, in this particular instance,
19 interstate domestic violence as alleged in Count Seven; and,
20 third, the defendant caused the death of a person through
21 the use of a firearm.

22 Count Eight (*sic*), Your Honor, charges a violation
23 of 18 U.S.C. Section 1512(a)(1)(C). The defendant did
24 murder a witness, in particular, Allaina Whetzel Taylor.
25 The elements are: one, that the defendant killed another

1 person; two, the defendant did so with the intent to prevent
2 communication by any person to a law enforcement officer or
3 judge of the United States of information relating to the
4 commission or possible commission of a federal offense.

5 Count Ten, Your Honor, charges the use of a firearm
6 in relation to a crime of violence, in particular the murder
7 of witness Allaina Whetzel Taylor, in violation of 18 U.S.C.
8 Sections 924(c) and 924(j)(1). The elements are: one, the
9 defendant used or carried a firearm; two, the defendant did
10 so during and in relation to a crime of violence which may
11 be prosecuted in federal court, and, in particular, the
12 murder of witness Allaina Whetzel Taylor as alleged in Count
13 Nine; and, third, the defendant caused the death of a person
14 through the use of the firearm.

15 Moving to Count 13, Your Honor, which charges the
16 defendant with tampering with witnesses, a violation of 18
17 U.S.C. Section 1512(b)(3). The elements are: first, that
18 the defendant corruptly persuaded or attempted to corruptly
19 persuade another person; two, that the defendant did so with
20 the intent to hinder, delay, or prevent the communication to
21 a federal law enforcement officer of information relating to
22 the commission or possible commission of a federal offense;
23 and, third, the defendant -- that the defendant did so
24 knowingly.

25 Count 14, Your Honor, charges the defendant with

1 tampering with evidence, a violation of 18 U.S.C. Section
2 1512(c). The elements are that, first, the defendant
3 altered, destroyed, mutilated, concealed, or attempted to
4 alter, destroy, mutilate, or conceal a record, document, or
5 other object; second, the defendant did so with the intent
6 to impair the object's integrity or availability for use in
7 an official proceeding; and, third, that the defendant did
8 so corruptly.

9 Count 15, Your Honor, charges that the defendant
10 did use fire during the commission of a felony. That's a
11 violation of 18 U.S.C. Section 844(h). The elements are as
12 follows: first, that the defendant used fire; and, second,
13 that the defendant did so to commit a felony which may be
14 prosecuted in federal court, in particular the destruction
15 of evidence as alleged in Count 14.

16 Lastly, Your Honor, Count 16 charges the defendant
17 with being a felon in possession of a firearm, in violation
18 of 18 U.S.C. Section 922(g)(1). The elements are as
19 follows: first, that the defendant, having been convicted
20 in some court of a crime punishable by imprisonment for a
21 term exceeding one year; second, that the defendant
22 possessed a firearm or ammunition; third, that the firearm
23 or ammunition traveled in interstate or foreign commerce at
24 some point during its existence, and, fourth, that the
25 defendant did so knowingly.

1 Your Honor, those are the elements of the offenses
2 to which Mr. Keller is pleading guilty. And I'll shift at
3 this time to summarize the plea agreement for the Court.

4 THE COURT: That will be fine.

5 MR. TERRIEN: Your Honor, I would note that this is
6 a plea agreement fashioned under Rule 11(c)(1)(C). And
7 pursuant to the plea agreement, the defendant will plead
8 guilty to the charges I have just summarized, which, for the
9 record, are Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, 13,
10 14, 15, and 16.

11 Your Honor, given that I have already summarized,
12 essentially, the general nature of each of these charges,
13 I'll simply summarize the punishment ranges for each of
14 them.

15 Your Honor, the maximum possible punishment for
16 Count 1 is a fine of up to \$250,000 and a term of
17 imprisonment of up to five years plus a term of supervised
18 release.

19 For Count 2, Your Honor, the maximum statutory fine
20 is \$250,000, a term of imprisonment of up to 20 years, plus
21 a term of supervised release.

22 For Count 3, the maximum statutory penalty is a
23 fine of up to \$250,000 and a term of imprisonment up to
24 life, or death, plus a term of supervised release.

25 For Count 4, Your Honor, the maximum statutory

1 penalty, again, is a fine of up to \$250,000 and a term of
2 imprisonment of up to 20 years, plus a term of supervised
3 release.

4 For Count 5, Your Honor, the maximum statutory
5 penalty, again, is a fine of up to \$250,000, a term of
6 imprisonment of up to 20 years, plus a term of supervised
7 release.

8 For Count 6, the fine remains the same, the maximum
9 fine is the same, the term of imprisonment is up to 20
10 years, plus a term of supervised release.

11 Count 6, the maximum statutory fine, again, is up
12 to \$250,000, a term of imprisonment of up to 20 years, plus
13 a term of supervised release.

14 For Count 7, Your Honor, the maximum statutory
15 penalty is a fine of up to \$250,000 and a term of
16 imprisonment up to life, plus supervised release.

17 For Count 8, the maximum fine, again, is the same
18 and the term of imprisonment of up to life, or death, plus a
19 term of supervised release.

20 Moving on to Count 9, Your Honor, the maximum fine
21 is up to \$250,000, and a term of imprisonment up to life, or
22 death, again, plus a term of supervised release. There is a
23 mandatory minimum sentence of imprisonment for life.

24 Count 10, Your Honor, the maximum statutory penalty
25 is a fine of up to \$250,000, a term of imprisonment up to

1 life, or death, plus a term of supervised release.

2 Moving to Count 13, Your Honor, the maximum
3 statutory penalty is a fine of up to \$250,000, and a term of
4 imprisonment of up to 20 years, plus a term of supervised
5 release.

6 For Count 14, Your Honor, the maximum fine is
7 \$250,000, the term of imprisonment can be up to 20 years,
8 plus a term of supervised release.

9 Count 15, Your Honor, maximum statutory penalty is
10 a fine of \$250,000, a term of imprisonment of up to ten
11 years, plus a term of supervised release. There is a
12 mandatory minimum sentence of imprisonment of ten years that
13 must be served consecutively to any other term of
14 imprisonment.

15 Count 16, Your Honor, the maximum fine is \$250,000,
16 the term of imprisonment is up to ten years, again, plus a
17 term of supervised release.

18 Moving on to page four of the plea agreement, Your
19 Honor, the defendant states that he is pleading guilty
20 because he is, in fact, guilty and because he believes it is
21 in his best interest to do so and not because of any threats
22 or promises.

23 He understands he is waiving valuable
24 constitutional rights as part of this plea hearing. And
25 they are spelled out in detail in section two on page four.

1 As part of this agreement, the United States has
2 agreed to dismiss this defendant from the remaining counts
3 of the indictment at final disposition.

4 Moving on to page five, Your Honor, the United
5 States and the defendant have agreed that he will be
6 sentenced to the maximum term of imprisonment for each count
7 that he is pleading guilty to.

8 The parties have agreed that all other matters,
9 including, but not limited to, restitution, and fines are
10 left to the Court's discretion.

11 He understands that pursuant to Rule 11(c)(1)(C) of
12 the Federal Rules of Criminal Procedure the Court may either
13 accept or reject this plea agreement in its entirety. He
14 understands that he will be allowed to withdraw his plea of
15 guilty if the Court rejects this plea agreement.

16 The defendant states as part of this agreement he
17 understands that he will spend the rest of his life in
18 prison and he will not be eligible for parole during any
19 term of imprisonment imposed.

20 Moving on to page seven of the agreement, the
21 defendant is waiving his right of direct appeal. And that
22 is spelled out in detail in section C 1 at the bottom of
23 page seven.

24 On the top of page eight, the defendant has agreed
25 to waive his right to collaterally attack any order entered

1 by this Court and the sentence imposed.

2 As noted beginning on the bottom of page eight and
3 the top of page nine, the defendant has agreed to additional
4 obligations. I will simply note the first one, that he
5 agrees not to commit any of the following, and, again, the
6 first one is that he will not attempt to withdraw his pleas
7 of guilty.

8 Moving on to page ten, Your Honor, halfway down the
9 page, the defendant notes his satisfaction with his
10 counsel. Specifically, the defendant notes that he has
11 discussed the terms of the plea agreement and all matters
12 pertaining to the charges against him with his attorney and
13 he is fully satisfied with his attorney and his attorney's
14 advice. At this time he has no dissatisfaction or complaint
15 with his attorney's representation. And he agrees to make
16 known to the Court no later than at the time of sentencing
17 any dissatisfaction or complaint he may have with his
18 attorney's representation.

19 Moving on to page 11, Your Honor, at the top, the
20 defendant knowingly and willfully stipulates that there is a
21 sufficient factual basis to support each and every material
22 factual allegation contained in the charging document to
23 which he's pleading guilty.

24 Further down on page 11 the agreement notes that
25 this writing sets forth the entire understanding between the

1 parties and constitutes the complete agreement between the
2 United States Attorney for the Western District of Virginia
3 and the defendant, and no other additional terms or
4 agreements shall be entered, except and unless those other
5 terms and agreements are in writing, signed by the parties.

6 Your Honor, that agreement has been signed by the
7 parties and previously filed with the court.

8 THE COURT: I wonder, Mr. Terrien, is there any
9 dispute or any assertion of restitution that may be due and
10 owing by this defendant?

11 MR. TERRIEN: I do not believe that there will be,
12 Your Honor.

13 THE COURT: Okay. So that's a nonissue as far as
14 the government is concerned?

15 MR. TERRIEN: I believe it is, Your Honor.

16 THE COURT: Mr. Hebllich, let me ask if you and
17 Mr. Keller will return to the podium.

18 Mr. Hebllich, let me ask you first, do you agree
19 with counsel's statement of the elements of each of the
20 offenses to which Mr. Keller proposes to plead guilty?

21 MR. HEBLICH: Yes. I believe the government has
22 covered all of the elements of each count.

23 THE COURT: Regarding Mr. Terrien's summary of the
24 plea agreement, then, do you feel that the summary that has
25 been given is complete and consistent with your

1 understanding of the contract that Mr. Keller has made with
2 the government in his case?

3 MR. HEBLICH: I believe that Mr. Terrien's summary
4 completely covered all material points of the plea
5 agreement, as I understand them and, I believe, as
6 Mr. Keller understands them also.

7 THE COURT: Mr. Keller, is that your feeling as
8 well? Do you feel that Mr. Terrien's summary of the plea
9 agreement was fair and comports with your understanding of
10 the bargain that you made with the government in your case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I wonder, has anyone made any
13 additional promises to you, or given you any guarantees or
14 offered you any reason to believe that you might be treated
15 in a way other than what has been stated by Mr. Terrien in
16 summarizing the plea agreement?

17 THE DEFENDANT: No, sir.

18 THE COURT: No one has promised you any particular
19 outcome other than what he has said?

20 THE DEFENDANT: No, sir.

21 THE COURT: No one has promised you or told you you
22 would be treated in a more lenient fashion at some point
23 down the road?

24 THE DEFENDANT: No, sir.

25 THE COURT: Sir, has anyone tried to force you to

1 plead guilty or coerce you, compel you, twist your arm,
2 exert undue influence upon you, or cause you to make a plea
3 of guilty to these various counts of the indictment contrary
4 to what you believe to be your own best interest in the
5 facts and circumstances of the case?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you tell me that you propose to
8 plead guilty voluntarily and without undue influence or
9 coercion?

10 THE DEFENDANT: Yes, sir, I do.

11 THE COURT: You tell me that you propose to plead
12 guilty because you are, in fact, guilty of all of these
13 offenses which are summarized in the plea agreement and
14 because you think it is in your best interest to enter pleas
15 to these various counts?

16 THE DEFENDANT: Can I ask --

17 THE COURT: Sure.

18 (Off-the-record discussion between defendant and
19 defense counsel.)

20 MR. HEBLICH: Your Honor, I believe the Court was
21 asking him whether he agrees to plead guilty because it is
22 in his best interests; is that right?

23 THE DEFENDANT: Yes, sir. I agree to plead guilty.

24 THE COURT: Well, I don't know if I'm going to be
25 able to have that recitation, Mr. Hebllich.

1 You tell me that you are, in fact, guilty of the
2 offenses to which you are going to be asked to plead at the
3 end of the day, the ones that have been summarized by
4 Mr. Terrien?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, I wonder, Mr. Keller, one of the
7 things that Mr. Terrien said in his summation is that in the
8 plea agreement you have indicated, apparently, that you
9 intend to waive your right to appeal my judgment at some
10 later time about your sentence to a higher court, or, for
11 that matter, to appeal the decision that is made by the
12 Court in accepting pleas of guilty from you, or, more
13 generally, to appeal any issue to a higher court, save for
14 those very limited number of issues for which waiver of
15 appeal is not permitted? Is that true? Did you intend to
16 give up, in essence, your right to appeal the Court's
17 decision in the case and the outcome that has been described
18 to a higher court?

19 THE DEFENDANT: Yes, sir, I have.

20 THE COURT: Furthermore, the agreement would
21 indicate that you have said that you would give up your
22 right to collaterally attack the Court's judgment at some
23 later time, that is, to challenge the constitutionality of
24 the Court's judgment, the propriety of the Court's
25 judgment through some collateral vehicle, such as a motion

1 to vacate sentence, or a 2255, a petition of writ of habeas
2 corpus, or a petition for writ of coram nobis, something of
3 this sort. Is that true? Did you intend to give up your
4 right to collaterally attack the Court's judgment at some
5 later time save for any issue that cannot be waived or
6 claims of ineffective assistance of counsel?

7 THE DEFENDANT: Yes, sir, I do.

8 THE COURT: Now, Mr. Keller, do you understand
9 that, given the nature of the agreement between you and the
10 United States, specifically, that both you and the
11 government propose that you be allowed to plead under Rule
12 11(c)(1)(C) of the Federal Rules of Criminal Procedure, that
13 if the Court adopts the plea agreement at the end of the
14 day, that will be a case-dispositive event, but, on the
15 other hand, if the Court for whatever reason decides that it
16 is unable to accept the plea agreement in whole or in part,
17 that you would be allowed to plead anew, that is, we would
18 begin again in the process and you would be allowed to plead
19 separately and independently to each of the counts of the
20 indictment?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that a Rule
23 11(c)(1)(C) plea is binding in terms of the recommendations
24 as to sentence? If the Court agrees to go along with the
25 plea agreement, go along with the proposed pleas, that the

1 Court would be required to sentence you in accordance with
2 the plea agreement; and to the Court's understanding, that
3 would mean that you would be given the maximum sentence as
4 to each of the counts to which you would be pleading?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, do you understand that in
7 determining whether to accept your plea agreement, in
8 determining whether to go along with the outcome that you
9 and the government are recommending to the Court, the Court
10 is required to consider the federal advisory sentencing
11 guidelines, the sentencing guidelines, and to really begin
12 consideration of the issues of sentencing based on the
13 guidelines?

14 Have you and Mr. Heblich talked about the advisory
15 sentencing guidelines, how they work and what they might
16 mean in your case?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The application is limited in your
19 case, but the Court is required to compute the guideline
20 range for you, nonetheless, and to consider that guideline
21 range in making a decision as to whether to approve the plea
22 agreement.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that, based on your
25 own criminal history and the offense conduct on this

1 occasion, the guidelines will predict a sentencing range for
2 you that will give the Court some input, some starting point
3 in deciding whether to approve the plea agreement in your
4 case?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that this guideline
7 range is merely advisory, and the Court might, in all
8 likelihood, make a decision about sentencing independent of
9 the guideline range computed for you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that in applying the
12 guidelines, to the extent that there are any disputed facts,
13 the Court will use a standard of preponderance of the
14 evidence to resolve those facts rather than the standard of
15 proof beyond a reasonable doubt that normally applies in
16 criminal cases?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that many of your
19 counts allege a conspiracy with other persons? And if you
20 are convicted of a conspiracy count, in measuring your
21 culpability for purposes of the guidelines, the conduct of
22 coconspirators could be considered to the extent that that
23 conduct was foreseeable by you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Heblich is someone who understands

1 about these sentencing guidelines. He works with them
2 frequently. It is part of what he does as a federal
3 defender. And he may have come to you and said, "Nakia,
4 this is how I compute the guidelines in your case. This is
5 the guideline range that I think the Court is going to be
6 asked to consider in determining whether to approve the plea
7 agreement."

8 Sir, do you understand that, as you stand here
9 today, no one knows exactly how the guidelines are going to
10 be computed in your case and it may very well be that at the
11 end of the day the guideline range that is said to apply to
12 you turns out to be very different from what Mr. Heblich or
13 Mr. Terrien or someone else may have told you you might
14 expect to receive? You understand there are no guarantees
15 about how these guidelines are to be computed?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: But, once again, you understand that in
18 your case the guideline application is very limited and has
19 a very small practical effect. The key decision that will
20 have to be made is whether the Court will approve the plea
21 agreement.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, do you understand that under your
24 particular plea agreement, under your contract with the
25 government, the Court would impose a sentence that would not

1 permit parole? Do you understand that if you plead guilty
2 and the Court approves your plea agreement and sentences you
3 in accordance with that agreement, you would not be eligible
4 for parole at any future time in your life?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you understand that if the Court
7 goes along with the plea agreement, you would receive a life
8 sentence? You would never be released from prison at any
9 time in the future for any reason?

10 THE DEFENDANT: Yes, sir, I do.

11 THE COURT: Do you understand that under your plea
12 agreement, even though both Mr. Heblich and Mr. Terrien have
13 told me that it is not a viable issue, that it would be up
14 to the Court to decide about the matter of restitution, and,
15 for that matter, about what fines, if any, should be imposed
16 in your case?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, most importantly, Mr. Keller, I
19 need to make absolutely sure that you understand about the
20 very valuable constitutional and related statutory rights
21 that you would waive, that you would give up, if you make
22 pleas of guilty.

23 Now, as things stand today, as you appear before
24 the Court this afternoon, you stand there along with
25 counsel, you enjoy a presumption of innocence in this

1 criminal prosecution. It is yours. Given your status as a
2 person who has not been convicted, given your status as a
3 citizen of the United States, you are presumed innocent in
4 this criminal prosecution.

5 And that presumption of innocence is very
6 important, Mr. Keller. It serves as a shield, a barrier, a
7 wall between you and the power and might of the United
8 States government. It is a mountain that the government has
9 to climb and get over by proof beyond a reasonable doubt
10 should you go to trial in order to establish your guilt in
11 these matters. It is a very powerful tool. You own it. It
12 is yours. It stands to protect you. Indeed, the
13 presumption of innocence, in and of itself, might be
14 sufficient for you to be acquitted in this case should you
15 go to trial, that is, found not guilty, without you putting
16 on any evidence or offering any defense to the matter
17 whatsoever. It is a powerful constitutional weapon. You
18 possess it. You own it. It is yours.

19 Sir, do you understand that as you stand here today
20 you are presumed innocent of any criminal wrongdoing in this
21 matter?

22 THE DEFENDANT: Yes, sir, I do.

23 THE COURT: And do you understand if you plead
24 guilty here in a few moments, you'll lose that presumption
25 of innocence, you waive it, it is gone forever, and it no

1 longer stands to protect you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Sir, do you understand that based upon
4 your original pleas of not guilty that bring us here today
5 your case has been set for trial? It is on my trial
6 calendar. It has been on the calendar for some time. And,
7 indeed, should you change your mind this afternoon and
8 decide that you want to plead not guilty and go to trial, so
9 be it. The Constitution guarantees you the right to a
10 speedy public trial. That means that this matter can't be
11 held over your head indefinitely and can't be kept in the
12 lockup forever. You are entitled to have the matter tried
13 and disposed of in a short order in a public venue, such as
14 this, so that your family and friends could come and make
15 sure you are dealt with fairly.

16 Sir, do you understand that if you persist in pleas
17 of not guilty, the Constitution and laws of our nation
18 guarantee you the right to a speedy public trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And do you understand that if you plead
21 guilty, you would give up this right? There would be no
22 trial, speedy or otherwise. And we would simply set your
23 case down for sentencing in a few weeks' time?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Keller, if you change your mind and

1 decide that you want to plead not guilty and go to trial --
2 and, by the way, if you did change your mind, it wouldn't
3 make me mad. I would not be upset with you, neither would
4 Mr. Heblich, neither would Mr. Terrien and his associate.
5 We all want you, as officers of the court, to do what you
6 think is best for you. And if that means pleading not
7 guilty and going to trial, putting aside this plea
8 agreement, putting the matter forward to a trier of fact,
9 you would be entitled at that trial to a trial by jury.

10 That means that 12 of your peers, 12 members of the
11 common community, would be called upon to sit in judgment as
12 to the facts of your case. And only unless and until all 12
13 of those jurors, each and every one of them, decided that
14 you were guilty beyond a reasonable doubt could any judgment
15 of conviction be entered and any sentence imposed.

16 Sir, do you understand that if you change your mind
17 this afternoon, reject this plea agreement, go forward to
18 trial, no one will be angry at you, we won't be mad, and at
19 your trial you will be entitled to a trial by jury and a
20 unanimous jury verdict of guilty beyond a reasonable doubt
21 before you could be punished in this case?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand if you plead guilty here
24 in a few moments, you give up, once and for all, the right
25 to put the factual issues in this matter before a jury and

1 for the jury's consideration of your guilt or innocence
2 beyond a reasonable doubt?

3 THE DEFENDANT: Yes, sir, I do.

4 THE COURT: Okay. Do you understand, Mr. Keller,
5 that if you plead not guilty and go to trial, at your trial
6 the Constitution guarantees you the right to confront and
7 cross-examine all adverse witnesses, that means that as a
8 general rule no hearsay testimony could be admitted at your
9 trial against you, and, for your part, you would be entitled
10 to call upon the United States Marshal to subpoena witnesses
11 to be at your trial to help you testify and to help you
12 present your side of the story if you chose to put on a
13 defense?

14 Sir, do you understand that if you persist in not
15 guilty pleas and go to trial, the Constitution guarantees
16 you the right to confront adverse witnesses and to compel
17 the attendance of witnesses potentially favorable to you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand if you plead
20 guilty, you would be giving up these twin rights to
21 compulsory attendance and confrontation of witnesses?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, as we said a moment ago,
24 Mr. Keller, if you persist in pleas of not guilty and go to
25 trial, you would continue to enjoy this presumption of

1 innocence that I spoke of. That means that at your trial
2 you wouldn't have to say anything. You could sit at counsel
3 table, not say a word. Mr. Heblich wouldn't have to say a
4 word. You could let the government try to prove your guilt
5 to these criminal charges beyond a reasonable doubt without
6 your participation. On the other hand, at your trial you
7 would be considered a competent witness on your own behalf.
8 You might waive the right to remain silent, be sworn,
9 testify, offer testimony from witness. And in that event
10 your testimony and that of your witnesses would be
11 considered under the same credibility standards as would
12 testimony from officers of the government.

13 Sir, do you understand that if you persist in pleas
14 of not guilty and go to trial, you would have the right to
15 remain silent or the opportunity to waive that Fifth
16 Amendment guarantee and to offer evidence, your testimony
17 and that of others, in your defense?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you understand if you plead guilty,
20 you would give up these rights, you would no longer have the
21 right to remain silent, you could be required to be sworn
22 and offer testimony about the circumstances that underlie
23 these charges, and should you be called upon to testify, you
24 would be charged to answer truthfully to all questions put
25 to you?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Keller, I know that Mr. Heblich and
3 his associates have helped you decide what to do. He has
4 helped you understand these charges. He has investigated
5 the facts and conducted discovery. He has helped you
6 understand what these statutes mean and how they apply to
7 you. He has helped you understand your predicament and the
8 options that are available to you. He has listened to you
9 tell him your side of the story. And he has counseled you
10 and helped you decide what course you want to pursue. In
11 all likelihood, he has helped negotiate this plea agreement
12 with the government. And he may have come to you and said,
13 "Nakia, I think that this plea agreement is what we need to
14 do in your case. I recommend that you take the government's
15 offer."

16 But, Mr. Keller, you are going to be the one
17 spending life in prison if you go along with this plea
18 agreement, if you accept this deal, not Mr. Heblich. And I
19 guarantee that, even at this point in time, if you change
20 your mind, he will stand behind that decision and he will
21 work to his utmost ability at your trial to see that you are
22 not convicted and, if possible, that you are acquitted of
23 any wrongdoing. He will be your advocate.

24 Sir, do you understand that if you persist in pleas
25 of not guilty and go to trial, the Sixth Amendment of our

1 Constitution guarantees you the right to the assistance of
2 competent counsel such as Fred Hebllich or some other
3 attorney just as good?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And do you understand that if you plead
6 guilty you would, in effect, lose the biggest portion of
7 this Sixth Amendment right, there would be no trial,
8 Mr. Hebllich would have no need to litigate on your behalf,
9 though he would be present and represent you at the time of
10 sentencing?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, Mr. Keller, a moment ago, as we
13 said, you indicated that you wanted to waive your right to
14 appeal the Court's judgment in all key respects, save for
15 those very limited issues for which waiver of appeal is not
16 permitted. But, on the other hand, if you exercise your
17 constitutional right to go forward to trial, should you
18 lose, even if you are convicted, in that event you could
19 appeal every issue to a higher court, the United States
20 Court of Appeals, and have that higher court review all of
21 the rulings that are made here, both at the pretrial and the
22 trial level, to determine whether or not your conviction was
23 constitutionally obtained.

24 Sir, do you understand that if you plead not guilty
25 and go to trial, even if you lose, you would have the right

1 to appeal that judgment to a higher court?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you understand that under your
4 particular plea agreement, should you plead guilty and have
5 that plea accepted and have your plea agreement accepted,
6 you would, in effect, waive your right to appeal almost all
7 of the issues in your case save for those very limited
8 number of issues for which waiver of appeal could not be
9 accepted?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand, sir, that if you
12 plead guilty there will be no trial, you will have waived
13 the right to trial as well as to all of these other
14 constitutional rights that I have tried to summarize for
15 you?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: Mr. Keller, understanding all of these
18 things as you tell me that you do, understanding about these
19 very valuable constitutional rights that you propose to
20 waive, to give up once and for all by virtue of the pleas of
21 guilty, understanding about the provision of your plea
22 agreement in which it is indicated that there will be no
23 parole in your case, you are really waiving all right, by
24 virtue of this plea agreement, if accepted, to be considered
25 for parole, and, indeed, some of the charges would close

1 that thing in any event; understanding about the advisory
2 sentencing guidelines, how the Court will at least consider
3 your guideline range and determine whether to approve the
4 plea agreement; understanding about that plea agreement, how
5 it is a case-dispositive agreement and understanding that if
6 the Court accepts the agreement that you are going to be
7 bound by all of the provisions, as will the Court, in
8 determining what sentence you shall receive; understanding
9 about the charges in your case, very serious charges set
10 forth in a number of different counts; understanding about
11 the elements of these offenses; and understanding that if
12 convicted of these charges pursuant to the plea agreement,
13 you would be serving life in prison without the possibility
14 of parole; understanding all of these things, Mr. Keller, do
15 you tell me that you still wish to consider pleading guilty
16 to these charges pursuant to the plea agreement?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you absolutely sure?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You understand the very dire
21 consequences that will follow if your plea agreement is
22 accepted?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you have talked about it with your
25 family; you have talked about it with Mr. Heblich; this is

1 what you want to do?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: There's no doubt in your mind?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: There's no doubt in your mind?

6 THE DEFENDANT: No, sir.

7 THE COURT: If that is your decision, Mr. Keller,
8 I'd have you tell me now in your own words what did you do
9 that makes you feel that you are guilty of these offenses?
10 Why do you propose to plead guilty to these charges this
11 afternoon?

12 THE DEFENDANT: Well, sir, I agreed to plead guilty
13 as an aider and abettor to these charges because this is
14 what I have done. I mean, there's nothing else to it but
15 that.

16 THE COURT: All right. Well, pretend like I don't
17 know what was done and you explain it to me.

18 THE DEFENDANT: I helped my codefendant kill three
19 people.

20 THE COURT: How did you go about that? What
21 happened exactly?

22 THE DEFENDANT: I helped her plan it out. I
23 distracted the individuals so she could do the deed. I also
24 helped her buy the gun as well.

25 THE COURT: And did you do so with the

1 understanding that it was likely that these individuals
2 would be murdered?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: At some point did you attempt to
5 -- well, tell me about how you tampered with a witness.

6 THE DEFENDANT: Tampered with a what?

7 THE COURT: Witness.

8 THE DEFENDANT: Oh. Well, sir, we asked the
9 witnesses to come up with alibis so that we could cover our
10 trail. Of course, I destroyed evidence as well.

11 THE COURT: All right. Tell me about the
12 destruction of the evidence.

13 THE DEFENDANT: I set the house on fire. The
14 weapon that was used, I cut it up with a saw and got rid of
15 it. I disposed of clothing and everything else.

16 THE COURT: In committing these offenses, did you
17 employ a firearm?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did you travel across a state line in
20 order to finalize the commission of these offenses?

21 THE DEFENDANT: Yes, sir. We drove from Virginia
22 to West Virginia.

23 THE COURT: And in traveling across state lines, in
24 carrying the firearm and determining to kill witnesses and
25 tampering with the witnesses and tampering with the evidence

1 and in use of a fire to commit a felony, all of that was
2 done in collusion with someone else, pursuant to an
3 agreement with another person?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And in committing these acts, did you
6 do so with the notion and understanding that your
7 codefendant's spouse was a potential victim of your intended
8 crime?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you agree that, either as a
11 principal or an aider and abettor, Lori Keller's former
12 spouse was killed under circumstances best described as
13 murder, meaning the killing was malicious and committed with
14 premeditation?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Either as a principal or aider and
17 abettor, do you admit that a witness was killed with the
18 intent to prevent that witness from communicating to federal
19 law enforcement officers information relating to commission
20 of a federal crime?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Who was the witness?

23 THE DEFENDANT: Allaina Whetzel.

24 THE COURT: Was that witness murdered through use
25 of a firearm?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Terrien, would you agree that the
3 defendant's response has covered all of the elements of the
4 offenses to which he proposes to plead guilty?

5 MR. TERRIEN: Your Honor, I believe the only
6 element that the Court has not covered is that he is a
7 convicted felon.

8 THE COURT: Thank you.

9 MR. TERRIEN: Yes, sir.

10 THE COURT: As to the use of a firearm by a
11 convicted felon charge, Mr. Keller, do you admit that you
12 were previously convicted of a felony under the laws of the
13 United States or under the laws of one of the various states
14 of the union at some earlier time?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, tell me again, when you left to go
17 to the place where these acts were committed, where did you
18 leave from?

19 THE DEFENDANT: I left from Fulks Run, Virginia.

20 THE COURT: And where did you end up?

21 THE DEFENDANT: In Hardy County, West Virginia, at
22 the victim's residence.

23 THE COURT: Anything else, Mr. Terrien?

24 MR. TERRIEN: No, sir.

25 THE COURT: Mr. Heblich, any of the elements that

1 you feel have not been adequately covered by the defendant's
2 response?

3 MR. HEBLICH: I think they have all been covered,
4 Your Honor.

5 THE COURT: All right. Then at this time I'm going
6 to ask you two gentlemen to have a seat for a moment. We'll
7 call upon the United States for a proffer of the evidence as
8 to what the government believes could have been proven had
9 the matter gone forward to trial.

10 You may proceed by way of evidence or a proffer,
11 Mr. Terrien, however you prefer.

12 MR. TERRIEN: Your Honor, the United States is
13 going to proceed by way of an oral proffer.

14 THE COURT: That will be fine.

15 Is that satisfactory, Mr. Hebllich?

16 MR. HEBLICH: That's fine, Your Honor.

17 MR. TERRIEN: Your Honor, Lori Ann Taylor Keller,
18 who at the time of these offenses was known as Lori Taylor,
19 and Dennis Taylor, who went by Dennis, or "Chip," lived
20 together as man and wife in Rockingham County, Virginia,
21 from on or about July 4th, 1994, until sometime in October
22 of 2007.

23 Over the course of their 14-year marriage, Lori and
24 Dennis Taylor had three children together. This marriage
25 ended when a final divorce decree for Lori Taylor and Dennis

1 was entered on April 9th of 2009.

2 As the acrimonious divorce and custody pleadings
3 between Lori and Dennis Taylor evolved, Lori Taylor and
4 Nakia Keller began openly discussing their desire to kill
5 Dennis. Sometime in the spring of 2009 Lori Taylor and
6 Nakia Keller discussed various means of killing Dennis. In
7 the course of those discussions, Nakia Keller wrote down two
8 plans to kill Dennis and/or Allaina, Allaina Whetzel.

9 Plan one, Your Honor, was for Lori Taylor and Nakia
10 Taylor to wait for Dennis at his residence and,
11 quote/unquote, grab him, make him drive to a place where
12 they could kill him, kill him, and then, quote, cut off
13 fingers and dispose of teeth and burn him, end quote. They
14 would also burn his truck to a, quote/unquote, crisp, and
15 then drive home in their own car.

16 Plan two was simply to go to Dennis and Allaina's
17 residence, quote, and kill them both while the kids are in
18 school, end quote. On the back side of the plan was a list
19 of things they needed to execute the plan, including, quote,
20 full-body suits, gasoline, firearm, cutters to cut off
21 fingers, something to cut teeth out, pliers, new clothes,
22 zip ties to bound Chip, end quote, and good alibi
23 witnesses. They also agreed that they would kill any
24 witnesses to their crimes in order to evade apprehension.

25 On April 18, 2009, Lori Taylor and Nakia Keller

1 purchased a Jennings 9mm pistol in Virginia, the firearm
2 they would later use to murder Dennis, Allaina, and
3 Allaina's five-year-old daughter from a previous marriage,
4 Kaylee Whetzel.

5 Later, on August 31st, 2009, Lori Taylor and Nakia
6 Keller visited Nakia Keller's parents' residence. While
7 there, Nakia Keller instructed Lori Taylor how to fire the
8 Jennings 9mm pistol and they engaged in target practice.
9 Nakia Keller was convicted of felony offenses in 2003.
10 Therefore, he was not thereafter legally permitted to
11 possess a firearm.

12 Ultimately, on October 23rd, 2009, Lori Taylor and
13 Nakia Keller carried out their long-discussed plan to murder
14 Dennis and leave no witnesses, leading them to also murder
15 Allaina and Kaylee. It was on that day that Lori Taylor and
16 Nakia Keller drove from Virginia to Dennis and Allaina's
17 residence in West Virginia. Lori Taylor and Nakia Keller
18 entered the residence and used the 9mm pistol they had
19 purchased to shoot and kill Dennis, Allaina, and Kaylee.

20 After they had killed all three victims, Lori
21 Taylor and Nakia Keller undertook a number of actions
22 designed to conceal their involvement in the murders.
23 First, Nakia Keller and Lori Taylor set fire to Dennis and
24 Allaina's residence in an attempt to destroy and conceal
25 evidence of the crimes they had committed. They also

1 discarded along the roadside unspent bullets, magazines, and
2 other items -- by "magazines," Your Honor, I mean a firearm
3 magazine -- and other items connected to the murders.

4 Nakia Keller used an electric saw to cut the murder
5 weapon, the Jennings 9mm pistol, into several smaller pieces
6 for the purpose of concealing and discarding it. They also
7 discarded, in an outhouse, clothing worn during the
8 commission of the murders and pieces of the murder weapon.

9 Lori Taylor and Nakia Keller also attempted to
10 fabricate a false alibi. Specifically, Nakia Keller and
11 Lori Taylor instructed her three children that if anyone
12 asked where Lori Taylor and Nakia Keller had been that
13 night, the children were to lie and say that Lori Taylor and
14 Nakia Keller had been at home the whole evening.

15 In the evening on October 23rd, 2009, Hardy County
16 sheriff's deputies responded to a report of a house fire at
17 Dennis and Allaina's residence. When they arrived at Dennis
18 and Allaina's residence, they found the residence in
19 flames. The fire department also responded to the scene.
20 After the fire was extinguished, the firefighters found the
21 remains of Dennis, Allaina, and Kaylee at the bottom of the
22 basement stairwell.

23 In the early morning hours on October 24th, 2009,
24 the Hardy County coroner arrived at the scene of the fire
25 and pronounced all three victims deceased at the scene and

1 removed the bodies. Later on October 24th, 2009, the chief
2 medical examiner determined that the cause of death for each
3 of the victims was gunshot wounds.

4 The offenses, Your Honor, which I have described
5 occurred within the Western District of Virginia and
6 elsewhere. It certainly does not encompass all of the facts
7 surrounding this case, nor its investigation, but it is
8 sufficient, Your Honor, I believe, to cover the elements of
9 the offenses.

10 THE COURT: Thank you, Mr. Terrien.

11 Mr. Hebllich, let me ask if you and the client would
12 come back to the podium.

13 Mr. Hebllich, let me ask you, do you believe that
14 the proffer that has been given by Mr. Terrien on behalf of
15 the United States is an accurate statement of what might
16 have been adduced by the government by way of evidence if
17 the case had gone to trial?

18 MR. HEBLICH: Your Honor, I would say two things.
19 One is, is that I believe that that would be the
20 government's evidence if we went to trial. The second thing
21 I would like to say is that, as the Court heard in its
22 colloquy with Mr. Keller, that to the extent there's some
23 different version of events as to who did exactly what, that
24 what he has told you that he conspired, he -- for many of
25 the counts, he conspired, he aided and abetted, and there

1 are a number of counts where he, in fact, did exactly what
2 he is -- he did set the fires; he did destroy the evidence;
3 he did those things. And they certainly were the acts of
4 someone who is a principal rather than an aider and abettor.

5 I understand that the government's statement of
6 facts is stylized as "they." And our interpretation of that
7 is that it is including both defendants either as principals
8 or aiders and abettor without making distinctions between
9 them.

10 He's signing up for five life sentences. And he
11 certainly is swallowing a big pill. His concern is that --
12 he admits his guilt. He doesn't want to take response -- he
13 doesn't want to admit to facts that he doesn't think that
14 are true. And -- but he certainly admits to sufficient
15 facts to justify the pleas that he's making.

16 THE COURT: All right. Well, regardless of how it
17 is styled, would you agree that the government's proffer is
18 sufficient to forecast evidence that would establish
19 Mr. Keller's guilt under each of the counts to which he
20 proposes to plead?

21 MR. HEBLICH: Yes, indeed.

22 THE COURT: And you would agree that that forecast
23 of evidence is consistent with the facts of the case and
24 consistent with what Mr. Keller intends to admit if he does
25 make pleas of guilty to all of these counts?

1 MR. HEBLICH: Yes, sir.

2 THE COURT: Mr. Keller, with that explanation made
3 on your behalf through counsel, do you agree with the
4 government's proffer? In other words, do you feel the
5 government could have adduced evidence as outlined by
6 Mr. Terrien just a moment ago had the case gone forward?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you would agree that the evidence
9 forecast in Mr. Terrien's proffer would be sufficient to
10 establish your guilt under each of the counts to which you
11 propose to plead?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, more generally, Mr. Hebllich, let
14 me ask you, understanding the facts of this case as you have
15 indicated just a moment ago, based on your review of the
16 records, the evidence that has been collected by the
17 government, amassed in its investigation of this unfortunate
18 incident, based on your conversations with the client and
19 what he has told you about his conduct, given what I know is
20 your very thorough review of all of these statutes pursuant
21 to which he has been charged and the decisional law that
22 helps us understand what they mean and how far they reach,
23 given your many years of experience in representing folks in
24 federal court and state court in circumstances not too
25 dissimilar from these that present themselves today and

1 given your many years of advising people and helping them
2 understand about their predicament and the options that are
3 available to them, based on your work on behalf of your
4 client in helping to negotiate this plea agreement and the
5 various provisions that make up this proposal to the Court,
6 considering the totality of your services in this man's
7 case, do you believe that his proposed plea of guilty
8 pursuant to this plea agreement is well advised?

9 MR. HEBLICH: I do, Your Honor. I certainly think
10 it is well advised.

11 THE COURT: Mr. Keller, from your part, are you
12 satisfied with Fred Hebllich's services and, for that matter,
13 the attorneys who have helped Mr. Hebllich during the defense
14 of your case, his understanding of the evidence, his ability
15 as an advocate to ferret out the information the government
16 has collected against you, which I know has been freely
17 shared in these circumstances, his willingness to speak with
18 you and have you tell him your side of the story, his
19 understanding of these statutes pursuant to which you have
20 been charged and the decisions of other courts that help us
21 understand what they mean, and, more to the point, his
22 ability to communicate this to you and help you understand
23 about the statutory framework under which you have been
24 charged with these very serious offenses, his experience,
25 his expertise, the level of confidence that you have in him

1 as an advocate and as a representative, his ability and
2 willingness to act as your agent negotiating this plea
3 agreement, and, especially to the point, his capacity to
4 help you understand your options and the predicament in
5 which you find yourself and the responses that are available
6 to you under the law, sir, are you satisfied with all
7 elements of Mr. Heblich's services in your case?

8 THE DEFENDANT: Yes, sir, very satisfied.

9 THE COURT: Is there anything that you want to tell
10 me about the representation that you have received that I
11 need to know about before we move forward?

12 THE DEFENDANT: No, sir.

13 THE COURT: Now, Mr. Keller, I don't have to tell
14 you that this is -- this is the biggest day that you'll ever
15 experience. Here you are in a federal court proposing to
16 plead guilty to a multitude of charges with the
17 understanding that the Court is going to sentence you to
18 life in prison without the possibility of parole, that you
19 are going to stand convicted of offenses that were morally
20 wrong and would be a heavy weight for anyone to bear. This
21 day will mark the turning around of your life and the
22 beginning of a new chapter, and a very unfortunate chapter;
23 that it is a very, very important decision that you are
24 called upon to make today. And before I call upon you to
25 tell me -- make a final and binding decision about your

1 pleas in this case, I want to know, do you have any
2 questions of me about the things that I have tried to
3 explain to you, especially about your constitutional rights
4 or about your standing under this plea agreement, or any
5 -- any questions that you want to put to Mr. Hebllich about
6 things that I may have said or things that he may have told
7 you about earlier? Is there anything that you would ask
8 either one of us about any aspect of this case that you need
9 to have answered before I call upon you to make final and
10 binding pleas in your criminal case?

11 THE DEFENDANT: No, sir. I think both of you have
12 done a wonderful job.

13 THE COURT: Mr. Hebllich, is there any desire at
14 this time that we read the counts of the indictment in
15 totality or is it sufficient that the Court merely summarize
16 those counts as we go through the --

17 MR. HEBLICH: Your Honor, we'll waive the reading.
18 There's no need --

19 THE COURT: Do you wish to plead collectively, when
20 it comes time to do so, to all of the charges?

21 MR. HEBLICH: I'm sorry, Your Honor?

22 THE COURT: Do you wish to plead collectively to
23 the charges?

24 MR. HEBLICH: Yes.

25 THE COURT: Then I'm going to review very quickly

1 with you, Mr. Keller, the charges to which the Court would
2 have you plead in just a moment. When I call upon you to
3 plead, it will be with the understanding that the Court is
4 going to review the presentence report that is done
5 following pleas, and if those -- if your plea agreement is
6 accepted, you'll be bound by your pleas of guilty; that will
7 be the dispositive event in your case. If the plea
8 agreement is not accepted, you will be entitled at that time
9 to plead anew.

10 So, with that understanding, sir, in just a moment
11 I'm going to ask you how you plead to the following
12 charges: conspiracy to commit interstate domestic violence,
13 18 U.S.C. Section 371; conspiracy to carry and use a firearm
14 in furtherance of a crime of violence, 18 U.S.C. Section
15 924(o); conspiracy to kill witnesses, 18 U.S.C. Section
16 1512(k); conspiracy to tamper with witnesses, 18 U.S.C.
17 Section 1512(k); conspiracy to tamper with evidence, 18
18 U.S.C. Section 1512(k); conspiracy to use a firearm to
19 commit a felony --

20 MR. HEBLICH: Fire, Your Honor.

21 THE COURT: I'm sorry. Fire. Thank you.

22 Conspiracy to use fire to commit a felony, 18
23 U.S.C. Section 844(m); interstate domestic violence, 18
24 U.S.C. Sections 2261 and 2; use of a firearm during and in
25 relation to a crime of interstate domestic violence, in

1 violation of 18 U.S.C. Sections 924(c) and (j) and 2; murder
2 of a witness, in violation of 18 U.S.C. Sections
3 151(a)(1)(C) and 2; use of a firearm in relation to a crime
4 of violence, 18 U.S.C. Sections 924(c) and (j) and 2;
5 witness tampering, 18 U.S.C. Sections 1512(b)(3) and 2;
6 evidence tampering, 18 U.S.C. Sections 1512(c) and 2; use of
7 fire during the commission of a felony, 18 U.S.C. Sections
8 844(h) and 2; felon in possession of a firearm, 18 U.S.C.
9 Section 922(g)(1).

10 Sir, I ask you, how do you plead at this time to
11 the charges as just summarized by the Court?

12 THE DEFENDANT: I plead guilty, sir.

13 THE COURT: Mr. Keller, it is the Court's belief
14 and finding that you are fully competent and entering an
15 informed plea, that you are aware of the nature of the
16 charges and the consequences of your pleas, and that your
17 pleas of guilty are knowing and voluntary pleas supported by
18 an independent basis in fact as to each of the essential
19 elements of your offense. Your plea is accepted and you are
20 now provisionally judged guilty of each of the offenses
21 charged in the indictment.

22 At this time, Mr. Heblich, I'm going to ask if you
23 and Mr. Keller would come forward to Ms. Moody's desk. She
24 has in her hand a memorandum of guilty plea form. I would
25 ask that you gentlemen read the form. And if you believe

1 that it correctly summarizes what has happened here today, I
2 would ask that both of you sign that form on the bottom of
3 the page.

4 (Form executed.)

5 THE COURT: You gentlemen may have a seat.

6 The record will reflect that Mr. Keller has signed
7 the form, after reading it, all in open court in the
8 presence of his attorney, Fred Heblich.

9 Mr. Keller, it is now necessary that we refer your
10 case to the probation office for the preparation of a
11 presentence report. That report is very important in your
12 case because the Court will consider the report in
13 determining whether to approve the plea agreement. The
14 Court will also use the report in helping to understand how
15 the advisory sentencing guidelines apply in your case. And
16 that will further inform the Court as to whether the plea
17 agreement should be approved. So it is important. And you
18 will want to cooperate with the probation officer as he or
19 she gathers the information necessary for the report.

20 Once the report is complete, why, you'll be able to
21 read it. Mr. Heblich will see to that. And you can let the
22 probation officer know if there are minor corrections to
23 make: words that are misspelled, dates that are wrong,
24 names, perhaps, that need to be changed. On the other hand,
25 if you or counsel have any formal objections to make as to

1 the contents of the presentence report, your objections must
2 be made in writing within 14 days of the date you receive
3 the report.

4 Then, once the report is in its final form, we'll
5 have you back here. I think we'll get a pretty quick
6 turnaround in your case. We'll have a sentencing hearing
7 and we'll decide whether or not to approve the plea
8 agreement and to impose the sentence that you and the
9 government have agreed to.

10 Ms. Moody, do we have a date and time in mind for
11 sentencing for Mr. Keller?

12 THE CLERK: We have not spoken. I believe the
13 government would like to have it in Harrisonburg. And the
14 courtroom is available there August 30th, 31st, September
15 6th.

16 MR. HEBLICH: Morning?

17 THE CLERK: I'm letting other opposing
18 -- codefendant counsel check too. All day is available for
19 us.

20 MR. HEBLICH: Those dates are available.

21 THE CLERK: Are you saying they are okay?

22 MR. ELDRIDGE: Yes.

23 THE COURT: Mr. Terrien?

24 MR. TERRIEN: Yes, sir.

25 THE CLERK: Thursday, September 6th, 9:30 a.m.

1 THE COURT: Okay. Okay.

2 Mr. Terrien, under the category of victim
3 statements, I believe that the government had a matter to
4 present to the Court at this time.

5 MR. TERRIEN: Yes, Your Honor.

6 One of the members of the victim's family would
7 like to exercise his right to speak here today. He is
8 Kaylee Whetzel's grandfather. His name is Dale Whetzel. If
9 he could come forward?

10 THE COURT: That will be fine. Come forward, sir.

11 MR. TERRIEN: Podium, Your Honor?

12 THE COURT: Sir, do you want to be sworn and
13 testify or do you just wish to make a general statement?

14 MR. WHETZEL: I'm just going to make a general
15 statement, I guess.

16 THE COURT: Do you want to stand there or do you
17 want to be seated here in the witness box? Whichever you
18 prefer.

19 MR. WHETZEL: I can stand right here.

20 THE COURT: That will be fine.

21 MR. WHETZEL: Honorable Judge Conrad, my name is
22 Dale Whetzel. And I'm the grandfather of Kaylee Grace
23 Whetzel. And today we are here with Kaylee's father,
24 grandmother, and her loving family.

25 And, Your Honor, we are here today not to seek

1 revenge, but we are here to seek justice for the cruel and
2 cold-hearted death of Kaylee Grace Whetzel.

3 Under the United States Declaration of Independence
4 we are entitled to certain unalienable rights given to us by
5 our creator: life, liberty, and the pursuit of happiness.
6 By committing this horrific crime, the defendant has chosen
7 to forfeit those rights. But he did not have the right to
8 take these of the defendant. He took these rights from
9 three people, one of those being only a five-year-old
10 child. Because of hate and because of anger he decided to
11 take justice into his own hands. Because of his anger and
12 total disregard for the lives of other human beings by the
13 defendant, Kaylee Grace Whetzel will never have the
14 opportunity to experience or enjoy any of these God-given
15 rights.

16 Kaylee Grace was a daughter and granddaughter, a
17 niece, a cousin, and a friend of so many little children and
18 so many other people in our community. Kaylee Grace was
19 only five years old and still had a full life before her.

20 After reading the papers, I'm led to wonder
21 sometimes if this crime had political ties or had
22 involvement of a celebrity or an athlete or if this crime
23 got more media attention would we be here today at a plea
24 hearing or would we be going to trial for these acts of
25 cruelty.

1 I believe there are some criminal acts so terrible,
2 such as this one, that justice cannot be served through a
3 plea agreement. How can we bargain and put a price tag on
4 the life of a precious five-year-old child? It is not just
5 the murder, Your Honor, but it was a premeditated cold-
6 blooded execution of a vulnerable, innocent little girl. To
7 murder an innocent five-year-old child and then to attempt
8 to cover his crime, the horror is unthinkable. And a life
9 sentence could never satisfy the punishment God has granted
10 to the defendant.

11 On the day of October 23rd, 2009, Nakia Keller was
12 jury, judge, and executioner. This is the worst crime that
13 anyone could ever commit against another human being.

14 Our family has been to about all of the hearings
15 thus far and we have yet to see the defendant on any
16 occasion show any signs of emotion, guilt, or remorse for
17 these crimes.

18 It is not just a crime against the government, but
19 it is a crime against a little five-year-old child. It is a
20 crime against God, humanity, and a family that loved Kaylee
21 Grace more than words could ever express.

22 The defendant has denied the responsibility for
23 taking the life of Kaylee Grace Whetzel. How can there ever
24 be justice for Kaylee Grace and the family of Kaylee Grace
25 Whetzel? We will never know the truth of what happened that

1 horrible day. And we will constantly be haunted by the
2 suffering that Kaylee Grace experienced by the actions and
3 by the hand of the defendant on that day.

4 Your Honor, the father and family of Kaylee Grace
5 Whetzel have been sentenced to a life sentence by the
6 defendant. We will never have the enjoyment of watching
7 Kaylee Grace grow up. And our son and family will always
8 carry the grief and loneliness of not having Kaylee Grace in
9 our lives.

10 Your Honor, I consider myself to be a God-fearing
11 person and I believe God's word to be both truth and
12 justice. In Exodus 20:7, the Seventh Commandment, God said,
13 "Thou shall not kill." In Genesis 9:56, "And for your
14 lifeblood I will surely demand an accounting. I will demand
15 an accounting from every animal. And from each human being,
16 too, I will demand an accounting for the life of another
17 human being. 'Whoever sheds human blood, by humans shall
18 their blood be shed; for in the image of God has God made
19 mankind.'"

20 In Exodus 21, 12 through 14, "Anyone who strikes a
21 person with a fatal blow is to be put to death. However, if
22 it is not done intentionally, but God lets it happen, they
23 are to flee to a place I will designate. But if anyone
24 schemes and kills someone deliberately, that person is to be
25 taken from my altar and put to death."

1 Leviticus 24:17-21, if anyone takes the life of a
2 human being, he must be put to death. "Whoever kills an
3 animal must make restitution, but whoever kills a man must
4 be put to death."

5 Romans 13:1-5, "Let everyone be subject of the
6 governing authority, for there is no authority except that
7 which God has established. The authorities that exist have
8 been established by God. Consequently, whoever rebels
9 against the authority is rebelling against what God has
10 instituted, and those who do so will bring judgment on
11 themselves. For rulers hold no terror for those who do
12 right, but for those who do wrong. Do you want to be free
13 from fear of the one in authority? Then do what is right
14 and you will be commended. For the one in authority is
15 God's servant for your good. But if you do wrong, be
16 afraid, for rulers do not bear the sword for no reason.
17 They are God's servants, agents of wrath to bring judgment
18 on the wrongdoer. Therefore, it is necessary to submit to
19 the authorities, not only because of possible punishment but
20 also as a matter of conscience."

21 Your Honor, these are just a few of God's commands
22 as why the punishment of this heinous cold-blooded crime
23 could be nothing less than what Our Lord has commanded.

24 Your Honor, we just thank you and the Court for
25 this time. Thank you.

1 THE COURT: Am I to take it from your comments that
2 you believe that the Court should reject the plea agreement
3 and require the government to prosecute the case as a death
4 case?

5 MR. WHETZEL: Do I? Yes.

6 THE COURT: Is that what you are urging? Is that
7 the effect of your --

8 MR. WHETZEL: Yes.

9 THE COURT: And you understand that the decision
10 about the plea agreement won't be made today; it will be
11 made down the road when we have the second proceeding?

12 MR. WHETZEL: Okay.

13 THE COURT: I invite you to appear and offer
14 comments at those times as well.

15 MR. WHETZEL: Okay. Thank you.

16 THE COURT: Thank you, sir, for those heartfelt
17 words.

18 Is there anything else that needs to be done in
19 Mr. Keller's case at this time?

20 MR. TERRIEN: Nothing by the United States, Your
21 Honor.

22 MR. HEBLICH: No, Your Honor.

23 THE COURT: All right. Let's take about a five-
24 minute recess and we'll have the next case.

25 (Thereupon, these proceedings were adjourned at

1 2:35 p.m.)
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10 I certify that the foregoing is a correct transcript
11 from the record of proceedings in the above-entitled matter.
12

13 /s/ Carol Jacobs
Official Court Reporter

October 26, 2012
Date